

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

CEDRIC A. MITCHELL,

Plaintiff,

V.

CHAD FORD,

Defendant.

[illegible]

CIVIL ACTION NO. 5:21-CV-00128-RWS-  
JBB

## ORDER

Plaintiff Cedric Mitchell, proceeding *pro se*, filed the above-styled and numbered civil action complaining of alleged violations of his constitutional rights. Docket No. 1. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

Plaintiff complains of the actions of Defendant Chad Ford, a Bowie County detective. *See generally*, Docket No. 1. Defendant filed a motion to dismiss arguing that the statute of limitations had expired for Plaintiff's claims. Docket No. 5 at 3. The pleadings underpinning Plaintiff's claim, however, do not provide adequate information to discern when Plaintiff's claims arose—an essential precursor in determining whether the limitations period has expired. *See generally*, Docket No. 1; *see also* Docket No. 5 at 4. Plaintiff has also failed to keep the court apprised of his current residence and his whereabouts are unknown. Docket No. 5 at 2. Accordingly, the Magistrate Judge issued a report recommending that the lawsuit be dismissed without prejudice for failure to prosecute and for failure to state a claim upon which relief may be granted. Docket No. 5 at 4. A copy of this report was sent to Plaintiff at his last known address, with a return receipt requested, but no objections have been received. Accordingly, the Court is barred from *de*

*novo* review of the Magistrate Judge's report and instead reviews the report for plain error. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (explaining that in the absence of objections to a Magistrate Judge's report, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

The Court has reviewed the record in this cause of action and the Magistrate Judge's report. Upon such review, the Court has determined the report of the Magistrate Judge is correct. It is accordingly

**ORDERED** that the report of the Magistrate Judge is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute and failure to state a claim. This dismissal shall count as a strike for purposes of 28 U.S.C. § 1915(g). It is further

**ORDERED** that the statute of limitations is suspended for a period of 60 days following the date of entry of final judgment; however, such suspension shall not affect any claims upon which limitations had already expired at the time the lawsuit was filed. It is further

**ORDERED** that any and all motions which may be pending in this civil action, including the Defendant's motion to dismiss (Docket No. 5), are **DENIED-AS-MOOT**.

**So ORDERED and SIGNED this 27th day of September, 2022.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE